

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JACK FERRANTI,)	
)	
Petitioner,)	No. 05-CV-5222 (JBW)
)	
v.)	
)	ORDER
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

JACK B. WEINSTEIN, Senior District Judge:

This matter is on remand from the Court of Appeals for the Second Circuit with instructions to determine whether petitioner is able to present newly discovered evidence to the court justifying a second successive petition for habeas corpus. *See* Mandate of Court of Appeals for the Second Circuit, issued Oct. 18, 2005, at 1. *See also* 28 U.S.C. § 2255; 28 U.S.C. § 2244(b)(2)(B).

The parties met on March 3, 2006 to review unredacted videotapes in the possession of the United States Attorney, the City of New York, and the city fire and police departments. Petitioner, as well as his retained expert—whose opinions on the videotapes are the “newly discovered evidence”—were present.

The mandate instructs that “the district court may dismiss [petitioner’s successive section 2255] motion—without reaching the merits—if it finds that petitioner has not satisfied the requirements for the filing of such a motion.” Mandate, at 1. A decision on the merits is preferable.



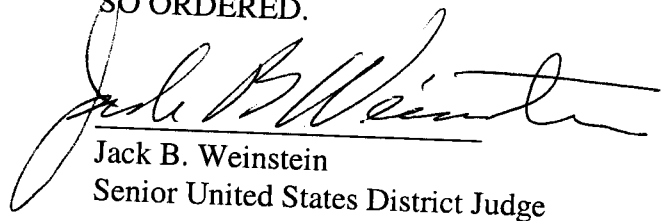
The matter has been delayed because the parties have had difficulty in completing discovery. *See* Mem. & Order of Nov. 3, 2005 (denying request for lengthy adjournment); Order of Dec. 12, 2005 (directing parties to expedite discovery). It is now complete.

The parties are directed to submit briefs as follows:

- Petitioner's motion for relief from sentence pursuant to section 2255: April 7, 2006 by 5 p.m.
- Respondent's opposition: April 28, 2006 by 5 p.m.
- Petitioner's reply: May 10, 2006 by 5 p.m.

Oral argument shall be heard on May 12, 2006 at 2 p.m.

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Dated: March 17, 2006
Brooklyn, New York